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In re Application of	: NOTICE OF
GAN, Zhong-Ru	:
US Application No.: 09/423,100	: VACATION OF
PCT Application No.: PCT/CN98/00052	:
Int. Filing Date: 31 March 1998	: NOTIFICATIONS
Priority Date: 31 March 1998	:
Attorney's File Reference: 20167000120	: OF DEFECTIVE
For: CHIMERIC PROTEIN CONTAINING AN	:
INTRAMOLECULAR CHAPERONE-	: RESPONSE AND
LIKE SEQUENCE AND ITS	:
APPLICATION TO INSULIN	: ABANDONMENT
PRODUCTION	:

This decision vacates the Notification of Defective Response (Form PCT/DO/EO/916) and Notification of Defective Declaration (Form PCT/DO/EO/917) mailed on 22 February 2001. This decision also vacates the Notification of Abandonment (Form PCT/DO/EO/909) mailed 14 May 2001.

BACKGROUND

On 31 March 1998, applicant filed, in English, international application number PCT/CN98/00052, which did not include a priority claim. The applicant did not file a Demand for international preliminary examination. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 07 October 1999. Accordingly, the twenty-month period for paying the basic national fee in the United States of America expired at midnight on 30 November 1999.

On 29 October 1999, applicant filed a transmittal letter for entry into the national stage in the United States of America, which was accompanied by, inter alia, the basic national fee and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration after the twenty-month deadline.

On 04 August 2000, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements which indicated, inter alia, that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed within one month

declaration in compliance with 37 CFR 1.497(a) and (b) must be filed within one month from the mailing date of the notification. The notification also stated that failure to properly respond to the notification would result in abandonment but that extensions of time were available under 37 CFR 1.136(a).

On 11 December 2000, the applicants filed, inter alia, a request for a four-month extension of time along with an executed declaration in compliance with 37 CFR 1.497(a) and (b).

On 22 February 2001, the DO/EO/US mailed a "Notification of Defective Response" (Form PCT/DO/EO/916) which indicated that the applicant's response and request for extension of time of 11 December 2000 had been received but that the requirements set forth in the Notification of Missing Requirements of 04 August 2000 had not been completed. A "Notification of Defective Oath or Declaration" (Form PCT/DO/EO/917) was attached to the notification. The Notification of Defective Oath or Declaration indicated that the declaration did not comply with 37 CFR 1.497(a) and (b) because it was not executed in accordance with either 37 CFR 1.66 or 37 CFR 1.68. The Notification of a Defective Response indicated that the applicant must complete the response within one month from the date of the Notification of a Defective Response.

On 20 March 2001, applicants filed, inter alia, a "Substitute Declaration for Utility or Design Application" also in compliance with 37 CFR 1.497(a) and (b).

On 14 May 2001, the DO/EO/US mailed a "Notification of Abandonment" (Form PCT/DO/EO/909) which stated that the above-identified international application was abandoned as to the United States of America because the applicants had failed to properly respond to the Notification of Missing Requirements mailed 04 August 2000.

DISCUSSION

Both the declarations filed on 11 December 2000 and 20 March 2001 meet all of the requirements of 37 CFR 1.497(a) and (b). Accordingly, the Notification of Defective Response and the Notification of a Defective Oath or Declaration mailed on 22 February 2001 and the Notification of Abandonment mailed on 14 May 2001 were all mailed erroneously.

CONCLUSION

For the above reasons, the holding of abandonment is hereby **WITHDRAWN** and the Notification of Defective Response and Notification of a Defective Oath or Declaration mailed 22 February 2001 and the Notification of Abandonment mailed 14 May 2001 are all hereby **VACATED**.

This application has a date under 35 USC 371 of 11 December 2000.

This application is being forwarded to the United States Designated/Elected Office for continued processing in accordance with this decision.



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